

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

In the Official Action, the Examiner rejects claims 18-21 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner argues that it is not clear whether the claimed containers are part of claim 1 (Applicants assume the Examiner is referring to the containers of claims 18-21 since no containers are recited in claim 1). The Examiner also indicates that the containers of claims 18-21 are not positively recited in the claims and it appears that claim 18 should depend from claim 2, not claim 1. Lastly, the Examiner has treated claims 18-21 as reciting an intended use (not a structural limitation) since the claims only require the capability to hold the containers.

In response, claim 18 has been amended to depend from claim 22 and to change “containers” to --the containers-- to refer to the containers recited in claim 22. Furthermore, claim 22 (as well as similar claims 23 and 24) have been amended to positively recite the containers as a structural limitation.

Accordingly, it is respectfully requested that the rejection of claims 18-21 under 35 U.S.C. § 112, second paragraph, be withdrawn.

In the Official Action, the Examiner rejects claims 1-10, 14-16 and 18-26 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,069,273 to O’Hearne (hereinafter “O’Hearne”). Furthermore, the Examiner rejects claims 1, 11, 12 and 17 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,626,508 to Hase et al., (hereinafter “Hase”). Lastly, the Examiner rejects claim 13 under 35 U.S.C. § 103(a) as being unpatentable over Hase in view of O’Hearne.

In response, Applicants respectfully traverse the Examiner's rejections under 35 U.S.C. §§ 102(b) and 103(a) for at least the reasons set forth below.

Firstly, claims 1-6 have been canceled, thereby rendering the rejections thereof moot.

The Examiner has cited O'Hearne directed to a food server and Hase directed to a cabinet cooler (also for food) against the claims. O'Hearne is cited against both independent claims (1 and 21) while Hase is only cited against independent claim 1. Thus, it appears that the Examiner has not given any patentable weight to the limitations in claims 1 or 21 regarding the "sterilized equipment which has been sterilized by hot steam."

The Examiner equates the refrigerated compartment (26) of O'Hearne to the cooling holding unit, the heated compartment (24) to the drying holding unit and the storage compartment (29) to the storage unit. Similarly, the Examiner equates the cabinet cooler (20) of Hase to the cooling holding unit and the rack (22) to the storage unit.

Applicants respectfully submit that claim 21 distinguishes over O'Hearne even though the sterilized equipment is not positively recited therein. O'Hearne teaches a refrigerated compartment (26) and heated compartment (24) for cooling and heating food, respectively. However, the storage compartment (29) of O'Hearne stores utensils (not the food that is cooled or heated). That is, claim 21 recites that the cooling holding unit, drying holding unit and storage unit each provide a respective function for the same item, namely, the sterilized equipment. Therefore, claim 21 recites a device having a cooling holding unit that holds and cools **sterilized equipment**, a drying holding unit that holds and dries **the sterilized equipment** and a storage unit that stores **the sterilized equipment**. Although O'Hearne discloses a device that heats and cools food, the storage unit disclosed therein is for

storing something other than food (utensils). Thus, O'Hearne does not disclose or suggest all of the limitations recited in independent claim 21.

As discussed above, claims 1-6 have been canceled. Claims 7-20 originally dependent upon claim 1 (directly or through intervening claims) have been amended, where necessary, to change their dependency from canceled claim 1 to claim 21.

With regard to the rejection of claims 1-10, 14-16 and 18-26 under 35 U.S.C. § 102(b), a steam sterilization storing device having the features discussed above and as recited in independent claim 21, is nowhere disclosed in O'Hearne. Since it has been decided that "anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim,"¹ independent claim 21 is not anticipated by O'Hearne. Accordingly, independent claim 21 patentably distinguishes over O'Hearne and is allowable. Claims 7-10, 14-16, 18-20 and 22-26 being dependent upon claim 21 (as amended), are thus at least allowable therewith (claims 1-6 being canceled). Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 1-10, 14-16 and 18-26 under 35 U.S.C. § 102(b).

With regard to the rejection of claims 1, 11, 12 and 17 under 35 U.S.C. § 102(e), claim 1 has been canceled and claims 11, 12 and 17 have been amended to depend from claim 21, which Applicants argue above is allowable.

With regard to the rejection of claim 13 under 35 U.S.C. § 103(a), since independent claim 21 patentably distinguishes over the prior art and is allowable, claim 13 is at least allowable therewith because it depends from allowable base claim 21. Consequently,

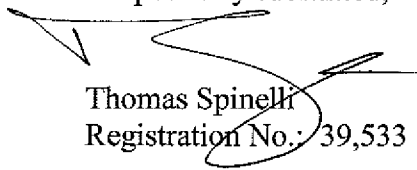
¹ Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458; 221 U.S.P.Q. 481, 485 (Fed. Cir., 1984).

the Examiner is respectfully requested to withdraw the rejection of claim 13 under 35 U.S.C. § 103(a).

Furthermore, new claim 35 has been added to further define the patentable invention. New claim 35 is fully supported in the original disclosure. Thus, no new matter has been entered into the disclosure by way of the addition of new claim 35. Applicants respectfully submit that new independent claim 35 patentably distinguishes over the prior art and is allowable.

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



Thomas Spinelli
Registration No.: 39,533

Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343
TS:cm